

AT A REGULAR MEETING OF THE CULPEPER COUNTY BOARD OF SUPERVISORS HELD IN THE BOARD ROOM, LOCATED AT 302 N. MAIN STREET, ON TUESDAY, JUNE 7, 2011.

**Board Members Present:**

**William C. Chase, Jr., Chairman**  
**Sue D. Hansohn, Vice-Chairman**  
Larry W. Aylor  
Steven E. Nixon  
Brad C. Rosenberger  
Tom S. Underwood  
Steven L. Walker

**Board Members Absent:**

None

**Staff Present:**

Frank T. Bossio, County Administrator  
Roy B. Thorpe, County Attorney  
Donna B. Foster, Deputy Clerk  
Barry Atchison, Assistant to the Deputy Clerk

**CALL TO ORDER**

Mr. Chase, Chairman, called the meeting to order at 7:00 p.m.

**CITIZEN FORUM**

Mr. Chase opened the Citizen Forum, called for comments on any item that was not on the agenda.

George Bryson, Jefferson District, stated he knew the Board was tired of hearing about the A. P. Hill Portrait. He noted his appreciation that the Portrait was back in Culpeper; however, the price that the Culpeper County had to pay was not right. He said the United Daughters of the Confederacy (UDC) did not work with the Board on the issue and had done what they could to deny even where the Portrait was located. Mr. Bryson said he found out where it was located. He discussed his concern with various dealings and issues pertaining to the woman from the UDC that the Board had dealt with on the Portrait. He stated he did not think that the newspaper cartoon relative to the A. P. Hill portrait was very funny. Mr. Bryson expressed further concern with the way the portrait issue had been handled and believed there had been a conspiracy and defrauding of Culpeper. He further discussed his concerns relative to previous actions taken by certain individuals and asked that the County never give away part of its history.

Gregory Smith, Stevensburg District, addressed the Board regarding the change in the plans for Route 3 widening to not go through his property. He said he was glad that it was not affecting his land, but when he questioned why, he discovered that it was because the County Comprehensive Plan reflected his property as being in a historical overlay area. He expressed concern that he was not notified that this was being done and how it might affect his property rights in the future. He requested that the County inform the property owners when any zoning related issues come up concerning their property. Mr. Smith said that he had spoken with a Supervisor who had indicated that it would probably not hurt him having his property in the historical overlay. However, he noted how disturbing it was to him that a neighbor in Brandy Station at Fleetwood Hill had run into uncalled for problems and there were statements made by tour guides relative to the size of house his neighbor was building on his historical property.

He added that he believed property rights were slowly being taken away. He reemphasized that the Board should keep all of this in mind and let the property owners know what designations are being made for their property.

Mr. Chase stated he was told that the historical district had no impact on building of houses, etc. Mr. Smith stated he had seen things happen in the past and that pointed out that at some point in the future he may want a Walmart or Cooperative to build on his land and it may not be allowed because it was historical. He emphasized if being in a historic overlay devalued his land, it was not right.

### **AGENDA ADDITIONS AND/OR DELETIONS**

Mr. Underwood moved, Mr. Aylor seconded, approval of the agenda as presented.

Mr. Chase called for a voice vote.

Ayes - Aylor, Chase, Hansohn, Nixon, Rosenberger, Underwood, Walker  
Motion carried 7 to 0.

### **PUBLIC HEARING(S)**

a. The Board will hold a public hearing to receive comments and consider amendments to **Chapter 3, Amusements. Article II. Outdoor Musical or Entertainment Festivals** and **Article III. License for Carnivals, Animal Shows, etc. of the Culpeper County Code** regarding provisions and licensing for festivals.

Mr. Thorpe noted the proposed amendments were before the Board for public hearing and proposed adoption. He noted the ordinance has been in the Code since 1997 and more recently issues had come up regarding who is required to apply for permits. He noted the original intent was to clarify that issue; however, in the review process other questions arose which had led to the matter being before the Board a second time. Mr. Thorpe pointed out a fee of \$100.00 was being recommended. He pointed out there was a letter dated May 23, 2011 from the Brandy Station Volunteer Fire Department, Inc. requesting that the Board consider exempting volunteer fire departments from obtaining permits for the events. He referenced the provision contained in the ordinance which addressed how requests for waiver of the requirements would be handled. He also pointed out that State, County and Town sponsored events were to be exempted.

Mr. Chase questioned if it would be legal to exempt Brandy Station Fire Department. Mr. Thorpe noted it would be legal if the Board wished to do so; however, the proposed amendments did not exempt them from the permit or fees. Mr. Chase noted the inspections by the building official were not something that could be exempted. Mr. Thorpe and Mr. Orr agreed noting it was a State Code requirement that the rides be inspected.

Mr. Aylor asked if the fees would be paid and then a refund could be requested, noting he understood payment of fees was the major issue. Mr. Thorpe noted that Section 3-29 addressed requesting a waiver of the permit requirements. He reviewed the section with the Board.

Mr. Chase asked if the members had further questions. There were none.

Mr. Chase opened the public hearing and asked if anyone present wished to address the Board on the proposed ordinance changes.

Bill Corbin, Cedar Mountain District, stated if his recollection was correct there had been a requirement for public health and safety review by the county health officer. He said he would like a provision be added in the future that if someone was to call in and ask for that review that it be done.

Mr. Chase asked if this was a request to not allow waiver of that particular requirement. Mr. Corbin stated it could be waived, but if someone had a complaint it should be checked out. He recalled that some years ago there were some serious accidents after some of the parties held in the area.

There being no one else in the audience wishing to speak, Mr. Chase closed the public hearing.

Mrs. Hansohn asked if churches were exempt. Mr. Thorpe stated no, not as the amendments were written. Mr. Underwood stated he would like to exempt everyone and if not it would be arbitrary. He further discussed his thoughts.

Mr. Chase suggested non-profit organizations like churches, fire departments, etc. could be exempted. Mr. Underwood stated that he hated to discriminate against those making a profit and discussed laws that were on the books that addressed various activities.

Mrs. Hansohn stated when the ordinance was originally adopted it was intended for rock concerts or big music festivals that might get out of control. She said the sponsors can come in and get the permit and follow all the rules, but it does not prevent something from happening and that was more of a police matter. She questioned if the Health Department and VDOT have their rules and regulations then what would the County be adding. Discussion ensued relative to the Health Department and VDOT signing off on permits with it being noted that they exempt the fire departments.

Mr. Nixon said he thought during the Committee's discussions it was noted that churches would be exempted. Mr. Thorpe agreed it was discussed and reviewed those entities that would be exempted which did not include churches.

Mr. Underwood recommended the matter be referred back to committee. Mr. Nixon stated, speaking as one member of the committee, that it should either be passed or withdrawn. He referenced the work that had been performed. Mrs. Hansohn asked what the goal was. Mr. Walker commented that it was interesting that Brandy Station Fire Department was asking to be exempted, since it was that Department that had requested uniformity, because they had been obtaining the permits and some of the other companies had not. He noted the objective was to create a uniform policy that could be used by various organizations. He noted the Sheriff was not present, but at the Committee level the Sheriff had brought out some concerns that he had with finding out after the fact or during the event when something goes wrong. Mr. Walker stated he did not want to see it go back to the Rules Committee and if it did, it should be with some direction from the Board.

Mr. Chase thought the main focus was the safety of the people which involved the Sheriff for security and the Health Department for sanitation concerns. He added the building official was required to be involved with the carnival equipment.

Mr. Underwood moved to repeal the chapter and replace it with a requirement that individuals have to notify the Health Department and Sheriff's Department if they are planning to hold an event with more than one hundred participants.

Mr. Thorpe stated if it is the desire of the Board to repeal Chapter 3 and replace it with something different, then he would ask that the proper legislation be put together in order to show what the replacement would be. He recommended that the matter be referred back to the Rules Committee along with direction from the Board that this be done. He pointed out that the notice to the public had been on the proposed amendment of Chapter 3 and not repealing it all together.

Mr. Underwood stated he would be for sending it back and that he for one would like to see the language, brought back to the Board, be kept to no more than two hundred words and simply a requirement to notify the Health Department and Sheriff's Department. A discussion ensued relative to the motion and requiring groups that may be exempted to make the contacts.

Mr. Nixon stated he would prefer just adding the local fire and rescue companies in as being exempted, but encourage them to do a plan.

Mr. Chase questioned if the members wanted to refer the matter back to committee. Mr. Nixon noted there was no second to Mr. Underwood's motion. A brief discussion ensued relative to the proposed motion with Mrs. Hansohn asking if Mr. Underwood would be at the next Rules Committee meeting. Mr. Underwood stated he would not be at the June meeting but would try to make the July meeting.

Following a further brief discussion, Mrs. Hansohn seconded the motion.

Mr. Rosenberger asked what the motion was. Mr. Underwood stated the motion was to refer the matter back to the Committee.

Mr. Rosenberger stated that was okay with him. He noted that if memory served him correctly, when the ordinance was originally adopted there was concern with large festivals that were being held in other counties. He noted without regulations in place, field parties and other similar events could be held and there would be no control over the hours during which they could be held, noise, or anything else. He said whether the Board liked it or not the more housing there is the more regulations would be needed. He believed serious consideration should be given before considering repealing the chapter all together.

Mr. Chase noted there is a noise ordinance and briefly described the preparation made for a festival which is held in his area. Mr. Rosenberger asked if they get a permit. Mr. Chase stated he believed that they do and that they had only held one event so far this year. Mrs. Hansohn reiterated even if they follow the ordinance and got all the approvals it doesn't mean there will not be trouble. Mr. Rosenberger stated even if there is a noise ordinance, without restriction on the hours of the event, the noise could be a disturbance to neighbors all night.

Mr. Nixon questioned and Mr. Rosenberger explained that there had been discussion on repealing the entire ordinance and he did not support that. Further discussion ensued.

Mr. Nixon stated it appeared to him if the Board wanted to exempt the fire and rescue departments then that could be done and the ordinance amendment could then be approved. Mr. Rosenberger asked if the farm show was exempt. Mr. Underwood and Mrs. Hansohn did not believe they were. Mr. Thorpe read Section 3-40 which addressed the requirement for farm shows and spelled out that individual animal exhibitors, agricultural fairs, art exhibits, or industrial art exhibits were exempted. He stated farm shows would be exempt as long as there were no side shows. A brief discussion ensued with Mr. Rosenberger calling for the question on the motion.

Mr. Walker noted the proposed permit fee was only \$100.00. Mr. Chase pointed out that the Brandy Station Fire Department letter outlined thousands of dollars in fees. Mrs. Hansohn and Mr. Nixon noted those were added costs for security, inspections, etc. It was clarified that currently the County did not charge a festival permit application fee.

Mr. Underwood stated he would withdraw his motion. Mrs. Hansohn agreed to withdraw her second. Mr. Rosenberger stated he did not know if this could be done, since he had called for the vote on the motion.

Mr. Chase asked for clarification on the motion. Mr. Underwood stated it was to send the matter back to committee. Mrs. Foster noted that she recorded the motion to include repealing the entire chapter. Mr. Underwood stated he wanted to repeal the chapter, but when he was asked to clarify the motion, he thought he said it was to send it back to committee. He reiterated that he would like to have the chapter repealed and replaced with two hundred words or less on notifying the Health Department and Sheriff's Department.

Mr. Chase stated the two hundred words would have to be approved before repealing the chapter. Mr. Underwood stated he would love to do that.

Mr. Thorpe questioned if the motion was simply to refer the matter back to Committee. Mr. Underwood stated yes.

Mr. Chase called for a voice vote on the motion to refer the matter back to the Committee.

There was no response.

Mr. Rosenberger stated he thought that Mr. Underwood had just withdrawn the motion. Mr. Underwood said he could not because Mr. Rosenberger had said that he had called for the question. Mr. Rosenberger stated it was a matter of semantics and indicated he was not being serious. Mr. Underwood concluded the motion had failed, so now there could be another motion. Mr. Chase agreed.

Mr. Nixon recommended exempting the volunteer fire and rescue departments. Mr. Walker asked where in the chapter the change would be made. Mr. Thorpe referenced Section 3-23 C and noted the fire and rescue organizations could be added into the list of exemptions right after "Town of Culpeper." Mr. Walker seconded Mr. Nixon's recommendation.

Mr. Chase asked if the matter would still have to go back to Committee. Several members stated no.

Mr. Thorpe provided clarification that the motion was to adopt the proposed amendments to Chapter 3, Amusements, Article II, Outdoor Musical or Entertainment Festivals and Article III, License for Carnivals, Animal Shows, etc. of the Culpeper County Code as advertised with one change to Section 3-23 as follows: C. Musical or entertainment festivals, including carnivals, circuses and animal shows as described in Article III, and events sponsored by the Commonwealth of Virginia, County of Culpeper, Culpeper County Public Schools, ~~and Town of Culpeper, and Culpeper County Volunteer Fire and Rescue organizations~~ are entirely exempt from this Article.

Mr. Chase called for a voice vote on the motion.

Ayes - Aylor, Chase, Hansohn, Nixon, Rosenberger, Walker

Nay - Underwood

Motion carried 6 to 1.

b. The Board will hold a public hearing to receive comments and consider an amendment to **Chapter 6 Building Regulations of the Culpeper County Code Section 6.4 Enforcement of the Uniform Statewide Building Code, Part 1, Virginia Construction Code and Part III, Virginia Maintenance Code**, to remove the sunset clause and cause this section to be in full force and effect until otherwise amended or repealed. The purpose of the ordinance amendment is to address dangerous structures as is authorized by the Uniform Statewide Building Code (USBC).

Mr. Orr stated the proposed amendment was to remove the sunset clause and cause the section to be in full force.

Mr. Walker asked if the ordinance had been working well. Mr. Orr stated yes, he had used the ordinance to address problems with seven buildings and all had been resolved except one which was still in the process.

Mr. Chase opened the public hearing and asked if anyone in the audience wished to address the Board on this matter.

Gregory Smith, Stevensburg District, asked if there was a county ordinance that requires that owners cut the grass when their property is unoccupied. Mr. Chase stated he knew which properties he was questioning and there was no county ordinance that addresses how a yard must be maintained. He suggested the problem may be addressed when a road project was completed. Mr. Smith stated that could be several years and the grass would be over his head by then.

Mr. Chase asked if there were any other comments, there being none, the public hearing was closed.

Mrs. Hansohn moved, Mr. Nixon seconded, approval of the amendment to Chapter 6 Building Regulations of the Culpeper County Code Section 6.4 Enforcement of the Uniform Statewide Building Code, Part 1, Virginia Construction Code and Part III, Virginia Maintenance Code, to remove the sunset clause and cause this section to be in full force and effect until otherwise amended or repealed.

Mr. Chase called for a voice vote on the motion.  
Ayes - Aylor, Chase, Hansohn, Nixon, Rosenberger, Walker  
Nay - Underwood  
Motion carried 6 to 1.

**NEW PLANNING COMMISSION BUSINESS- PUBLIC HEARINGS** – (There are no items for consideration.)

**ADJOURNMENT**

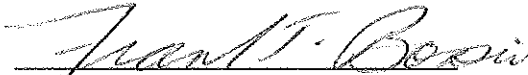
On motion by Mrs. Hansohn, the meeting adjourned at 7:45 p.m.



Donna B. Foster, MMC  
Deputy Clerk



William C. Chase, Jr., Chairman



Frank T. Bossio  
Clerk to the Board

Approved: July 5, 2011